

1 IN THE UNITED STATES DISTRICT COURT
2 FOR THE EASTERN DISTRICT OF TENNESSEE
3 AT KNOXVILLE, TENNESSEE

4 _____
5 SNMP RESEARCH, INC. and SNMP
6 RESEARCH INTERNATIONAL, INC.,

7 Plaintiffs,

8 vs.

9 BROADCOM, INC., BROCADE
10 COMMUNICATIONS SYSTEMS, LLC,
11 and EXTREME NETWORKS,

12 Defendants.
13 _____
14

Case No. 3:20-cv-451

15 **ELECTRONICALLY-RECORDED TELEPHONIC MOTION PROCEEDINGS**
16 **BEFORE THE HONORABLE DEBRA C. POPLIN**

17 **Tuesday, May 17, 2022**
18 **4:30 p.m. to 4:40 p.m.**

19 **APPEARANCES:**

20 **TELEPHONICALLY ON BEHALF OF THE PLAINTIFFS:**

21 ALVIN MATTHEW ASHLEY, ESQ.
22 OLIVIA WEBER, ESQ.
23 IRELL & MANELLA, LLP
24 1800 Avenue of the Stars
25 Suite 900
 Los Angeles, CA 90067

 JOHN L. WOOD, ESQ.
 CHERYL G. RICE, ESQ.
 EGERTON, MC AFEE, ARMISTEAD & DAVIS, PC
 P.O. Box 2047
 Knoxville, TN 37901-2047

TRANSCRIBED BY:

 Teresa S. Grandchamp, RMR, CRR
 P.O. Box 1362
 Knoxville, Tennessee 37901
 (865) 244-0454

APPEARANCES: (Continued)

TELEPHONICALLY ON BEHALF OF THE DEFENDANTS:

ALISON PLESSMAN, ESQ.
HUESTON HENNIGAN, LLP
523 West 6th Street
Suite 400
Los Angeles, CA 90014
Defendants: Broadcom, Inc. and Brocade
Communications Systems, LLC

LESLIE A. DEMERS, ESQ.
SKADDEN, ARPS, SLATE, MEAGHER & FLOM, LLP
One Manhattan West
New York, NY 10001-8602
Defendant: Extreme Networks, Inc.

* * * * *

1 MR. WOOD: Your Honor, this is John Wood for
2 plaintiffs, and --

3 THE COURT: All right.

4 MR. WOOD: -- Cheryl Rice and Matt Ashley and
5 Olivia Weber are also on for plaintiffs.

6 THE COURT: Okay. And for Extreme?

7 MS. DEMERS: Hello, Your Honor. You have
8 Leslie Demers for Extreme Networks today.

9 THE COURT: Okay. All right. I understand
10 that there is a --

11 MS. PLESSMAN: I'm sorry. This is Alison
12 Plessman for Broadcom and Brocade. I'm attending;
13 although, I don't think the issue concerns us, but
14 I'm -- I'm here.

15 THE COURT: Oh, okay, Ms. Plessman. So, thank
16 you.

17 All right. I understand there's been an
18 update. I was in a meeting and the parties were calling
19 in, and so I've been handed a printout of an update. I
20 looked at the last line, and it says that we're not
21 sure -- did not think that it would be necessary, but
22 since you're already on the line, you can go ahead and
23 give me the update. I'll just seek some dates of source
24 code estimations.

25 So, this is from you, Mr. Wood, so can you go

1 ahead and let me know what's going on.

2 MR. WOOD: Yes, Your Honor. So the parties
3 have been working all day on the -- on the estimate,
4 and --

5 THE COURT: Okay.

6 MR. WOOD: -- we -- so Extreme is now saying
7 that it can have at least one source code computer ready
8 by May 23rd, which is obviously before the May 25th date
9 that Your Honor set.

10 THE COURT: That's Monday.

11 MR. WOOD: And the other, May 27th.

12 Yeah, and the other by May 27th. And then once
13 they have one computer ready with all the source code,
14 their estimate is now that it will take two days to
15 produce the manifests.

16 And I think Ms. Demers may want to speak to
17 this, but their estimates may change as -- as these
18 things run. But we thought that estimate was close
19 enough to the date Your Honor set that we're satisfied
20 with it.

21 THE COURT: Okay.

22 MR. WOOD: And getting the updates.

23 THE COURT: Right.

24 So, Ms. Demers, were the -- I just want to go
25 back a little bit so I understand the timeline. Were

1 the computers picked up on Friday?

2 MS. DEMERS: Yes, Your Honor. The vendor had
3 the computers ready and we grabbed them on Friday, the
4 13th.

5 THE COURT: Okay. Did you start loading source
6 code Friday or over the weekend?

7 MS. DEMERS: Yes. So that process started on
8 Friday and continued over the weekend.

9 Overnight last night our vendor alerted us that
10 they had a couple of issues. They fixed the issues.
11 And we started the script again. But we're getting a
12 much later update this morning on an additional 12 days,
13 which would have put us, I believe, you know, next
14 Friday or over the weekend.

15 And so at that point we had reached out to
16 Mr. Wood and his colleagues to provide an updated time.
17 He had gotten that new information that we received.

18 THE COURT: Okay. And so you found out about
19 these potential time delays this morning; is that what
20 you said?

21 MS. DEMERS: Yes, we found -- well, around
22 midnight. So, yes, depending on how you're counting
23 morning.

24 THE COURT: All right. Okay. So, like, one
25 computer will be ready on May the 23rd, and then there

1 is a second one that will be ready before the 27th; is
2 that right?

3 MS. DEMERS: That's correct. And if I can just
4 expand on that very briefly.

5 THE COURT: Yes.

6 MS. DEMERS: These are the current estimates
7 based on the script on only having only one run for
8 about 12 hours, I believe, at this point.

9 As you can tell, you know, frankly, I'm not
10 quite sure why one computer that's identical to the
11 other would take until May 23rd and the other until May
12 27th.

13 And so our vendor is expecting that these dates
14 are going to hop around a little bit. And that's why we
15 had proposed to plaintiffs that we will give them an
16 update at the end of each day with, you know, the amount
17 of data that has been loaded so far and here is what the
18 computers are telling us will be the end date.

19 I just -- I'm not quite sure why we're getting
20 two different dates, and so I just wanted to, you know,
21 be fully transparent with plaintiffs and provide them
22 with updated information as soon as we can.

23 THE COURT: And just so I have a better
24 understanding, is one computer being loaded first and
25 then a second one started? I guess that's what I'm

1 trying to understand. And maybe you don't have the
2 answer to that based on these -- the extension of the
3 27th for one. But I guess I had the impression that
4 once you picked up the computers, they would be ready
5 for source code to be put on. So -- but it doesn't
6 sound like that.

7 MS. DEMERS: Yeah. So they were ready to have
8 source code put on both of them. And they were started
9 at different times, but the difference was only about an
10 hour. So it doesn't quite explain why we have several
11 day's difference between the two.

12 We had paused loading on one of the computers
13 today to run an experiment that Mr. Wood and I had
14 discussed to see if there was a faster method of loading
15 the source code. Unfortunately, it didn't pan out.
16 But, again, that would only have injected, you know,
17 another few hours of delay on that computer.

18 So although they started around the same time
19 and should have had code being loaded to them for
20 about -- with a few hour's difference, the same total
21 amount of time, we're getting some pretty different
22 estimates here.

23 THE COURT: Hmm. That's very interesting, and
24 I don't fully understand how that would be the case.
25 But --

1 MS. DEMERS: That makes several of us.

2 THE COURT: Yeah. Okay. But you are going to
3 give the daily updates as to the status for both
4 computers?

5 MS. DEMERS: That's correct. We'll provide
6 that end-of-day experience each day.

7 THE COURT: All right. Well, unless there is
8 some further explanation, it sounds like that's the most
9 that can be accomplished at this -- under the
10 circumstances.

11 So you'll be giving daily updates to the
12 plaintiffs, and with the current time estimates being
13 made, the 23rd and the 27th, with the manifests for the
14 checksum on the 25th.

15 MS. DEMERS: Your Honor --

16 THE COURT: So I'll do, I guess, a short sort
17 of line order with the date adjustments. And then if
18 there is any substantial change, then if we need to have
19 another teleconference just with chambers, but I
20 encourage you to keep doing what you have and giving the
21 updates and keeping an open communication as to the
22 status that we can get this accomplished.

23 MS. DEMERS: Yes, Your Honor.

24 MR. WOOD: Yes, Your Honor. Thank you very
25 much.

1 THE COURT: All right. You all have a good
2 afternoon.

3 MR. WOOD: Okay.

4 MS. DEMERS: You, too, Your Honor.

5 MR. WOOD: Thank you.

6 MS. DEMERS: Thank you, Your Honor.

7 (Which were all the electronically-recorded
8 telephonic proceedings had as
9 herein transcribed.)

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1 C-E-R-T-I-F-I-C-A-T-E

2 STATE OF TENNESSEE

3 COUNTY OF KNOX

4 I, Teresa S. Grandchamp, RMR, CRR, do hereby
5 certify that I reported in machine shorthand the above
6 electronically-recorded telephonic proceedings; that the
7 foregoing pages were transcribed under my personal
8 supervision and constitute a true and accurate record of
9 the electronically-recorded telephonic proceedings.

10 I further certify that I am not an attorney or
11 counsel of any of the parties, nor an employee or
12 relative of any attorney or counsel connected with the
13 action, nor financially interested in the action.

14 Transcript completed and signed on Wednesday,
15 June 29th, 2022.

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TERESA S. GRANDCHAMP, RMR, CRR
Official Court Reporter